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Declaration

Concerning matter of Bounty.

KING JAMES I. 1610.

LAW HJ 2612 A2 1610

Fuctimile Reprint, 1897.

To the Sonowable . In Charles E. Pollock

fu"

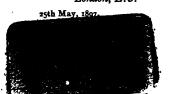
Profiting by the courtesy of the Trustees of the British Museum, I have obtained for the purpose of reproduction in a book, shortly to be published, photographic blocks of the Declaration concerning matter of Bounty published by King James in 1610. The particular mention which is made of this Declaration in the Statute of Monopolies renders it unique among English legal and historical documents and the interest attaching to it is enhanced by the circumstance that the document itself has been so completely lost to knowledge for two hundred and fifty years past that even its title has been only imperfectly known to writers upon English law since the days of Sir Edward Coke.

By an arrangement with my publishers I have secured the first two hundred impressions from these blocks in a separate form to be issued for private circulation and presuming upon the rarity and interesting character of the document I take the liberty with great respect to beg your kind acceptance of one of these copies.

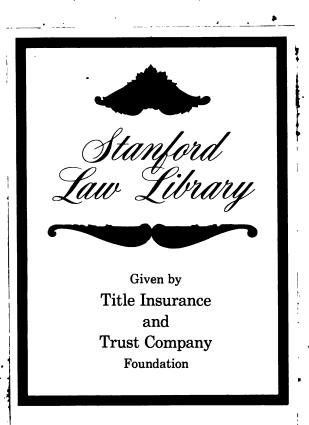
I have the honour to be, Your very obedient Servant,

Sto. Gordon

11, King's Bench Walk, Temple, London, E.C.



CJ A.E.G LLd



STANFORD LAW LIBRARY

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England and Wales. Sovereyno (1603-1625: James I)



A Declaration of His

Maiesties Royall pleasure, in what sort He thinketh fit to enlarge,

Or reserve Himselfe in matter of Bountie.



¶Imprinted at London by Robert

Barker, Printer to the Kings most

Excellent Maiestie.

Anno 1610.

M



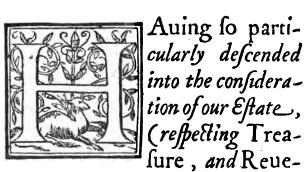
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By the King.

A DECLARA TION OF HIS

Maiesties Royall pleasure, in what sort he thinketh fit to enlarge, or reserve himselsem matter of Bountie.



nue,) as we finde it full of difficulty to reduce the same, to the termes A 3 that

that are to be wished, by any such sudden or certaine meanes, as will not require some length of Time, and change of former Customes, both in the maner of our Expence, and of our Bountie; Wee have thought it one of the best parts of the Care, not onely to resolue with our selues, to decline from all maner of Expence that shall not bee necessary for the safetie of Our Crowne, and honour of that Estate and dignitie (which no King can suffer to fall, but hee must run into contempt both abroad and at home) but also to take such further course as may make knowen to Our Seruants and Subjects; that although it is farre from Our intention to stop all liberalitie from Our well

well deseruing Seruants. Yet Wee meane not in respect of the vaine or vnnecessary Expence, of any priuateman (or vpon false suggestion of former seruices) to be drawen either by the mediation of friends, or by the importunitie of any partie in necessitie, so farre to respect or commiserate others, as to cast Our Selues and our Posteritie into those wants or streights, which may drive Vs to lay burdens on Our People, to whom Wee desire to endeere Our Selues by all the Princely offices of Fauour and Protection which any earthly King can affoord unto his Subiects. And therefore as We doe on the one part expressely forbid all Our Seruants and Subiects (of what condition

tion soeuer they be) to propound or offer any Suites to Us, by which Our People in generall may be impouerifhed or oppressed:So on the other part We doe likewise expressely forbid all persons whatsoever, to presume to presse Us, for any thing that may either turne to the diminution of Our Reuenew and setled Receipts, or lay more charge vpon Our Ordinarie, vpon paine to be helde and reputed in either of those two kindes, as persons unworthy to enioy Our Fauour or Presence for ever. In which consideration, because Wee know not whether We may unawares, or upon multiplicitie of businesse, chance to passe any Graunt or Warrant, contrary to the Order set downe herein: Wee

5

Wee doe not onely forbid all persons whatsoeuer, (either Officer or others) to receive any such Petitions, or Warrants, as shalbe of those natures that are forbidden in the schedule hereunto annexed (vpon that perill which is due to such presumption) but We doe forbid our Secretarie of Estate, the keeper of Our privie Seale, and Our Chancellour of England, to seale any such Graunt or Warrant, before they haue enformed Us particulerly, and received a new signification of Our pleasure by a new Warrant vnder Our hand. And because We haue obserued also, that the swiftnesse in preparing Warrants before the Suites be mooued, (a course contrary

trary to all good order,) is oftentimes a meane to hinder the examining and distinction of mens Suits: Wee doe likewise command Our principall Secretarie, Our Masters of Requests, and all other Ministers imployed under Our Secretarie in that feruice, not to suffer any Warrants to be made for any Suite, before the matter baue bene mooued unto Us by petition, and Ourpleasure signissied for that Warrant which is to passe Our hand: Except it be for any such Warrants Exception. or privie Seales, as serue to direct or appoint any summes of money to bee issued for paiments, that concerne any present service for Our selues, or Our Estate, which are things 7

things of other nature, and of greater expedition then matters of Reward.

And in a much as We are desirous To prevent to prevent the needlesse attendance of Suitors. fuiters, to their charge and disappointment, (which is little better, if not more preiudiciall, then a meere deniall,) or to leaue men incertaine, within what natures of Suites, they may containe their hopes, and when and where, they may resort for answere or dispatch: Wee have thought good, to conceiue and declare in another Schedule, (bereunto annexed) the natures of such Suits wherein We are pleased to be moued. And for the maner of propounding or mouing them, We doe further declare

clare, that either Our Principall Secretarie for the time being, or fome by Our appointment for him, and the Master of Requests then attending, shall have audience of Us for all Suits that doe concerne Our Bounty once in every weeke at least: At which time if the Same Shall appeare, to be within the natures aboue Limitation. limited for Reward, Our Pleafure fhall be so declared to those that doe present them, as the Suitors shall know what they may looke for, and where they shall be dispatched, according to the nature of the Suit that is moued: But if any of those Suites Examination further examination or information from any of Our Officers or Commissioners, whose know-

àn.

knowledge therein may be necessary, for giving Us further light of the Value and Nature thereof, they shall then be referred to those whome it concerneth, upon whose Answeres and Certificates Wee will significate our further Pleasure, as cause shall require.

And because there may be Suits, Mixed which doe not fall within the know-ledge or distinction of proper Officers and Offices (in which cases it may be convenient to referre the Examination of them to some such persons as may conferre with the parties, that doe present the said Suits, or those that may have some particular interest in the same, either in respect of trade or otherwise.) Wee have B 2 thought

Commis-Sioners.

thought meet (in that respect) to appoint a certaine number of Commissioners, to examine and consider of all such particulers, as shall be referred unto them by Vs or Our Counsell. And to preuent the passing or graunting of any thing which should be contrary to our Lawes, We have made Our choice of persons seuerally qualified, both in the understanding of our Lawes, and other knowledges, that they may be so much the better enabled, to report the quality of such Suits, to Our Priny Councel after conference with the Suitors, and Examination of their severall natures, and the Circumstances depending thereupon, which would take too much time, from Our fayd Priuy

Priuy Councell, if they should not be first prepared and digested by that course which is herein expressed.

Lastly, because We would be loth Referration that those that have not dayly accesse men. vnto Us, should thinke themselues in danger still to be preuented by others, who have more meanes to mooue Suites for themselues then they have; We doe declare hereby, that (except it be in Cases wherein some special industry of discouery may mooue Us more properly to respect the first Suitor then any otber) Wee will not suffer any such aduantage to be taken by one mans neercnesse more then another, as not to make it one of Our owne Cares (who so ever be the Moouer) to slay either

either the whole, or part for others, that deserve well, though they bee absent, according as Wee shall observe, that Wee have beene good unto such a Suitor before, in somethings else, or shall sinde the Suites themselves to be of such Value, as may content more then one.

¶A Me-

A MEMORIAL

OF THOSE SPEciall things for which Wee expressly command that no Suitor presume to moue Us, being matters either contrary to Our lawes, or such principall Prosits of Our Crowne, and setted Reuenue, as are sit to be wholly reserved to Our owne vse, untill Our Estate be repaired.

Things contrary to Our Lawes.



ONOPOLIES.

2. G Raunts of the benefite of any

Penal Lawes, or of power to dif-C pence

Reserved to Our owne vse.

- 3. R Ents, Lands, and Leases, in possession or Reversion, not barring the Tenants in possession, to renew their Estates, for xxj. yeeres, or three lives, as hath bene vsed heretofore.
- 4. A L lands entailed vpon the Crowne.
- 5. C Ustomes, Impositions, and Seisures for the same.
- 6. L Icences to Import, or Export commodities prohibited

bited by the Law, or any lawfull Commodities, without paying the due Custome

- 7. PRofits rising out of Our Tenures, Alienations, and Fines leuied, or Recoueries, either Common Recoueries, or other.
- 8. P Rofits answered vnto Vs, from any of Our Seales.
- 9. A Ssarts, and Defective Titles, as things onely fit to be measured by the rules of Our owne conscience.
- or Stallement, and all other Debts

 C 2 and

and Accompts accrued since the xxx. yeere of Q. Elizabeth.

11. T He Fines of the Starre.

Chamber.

12. N O newe Pensions to bee granted.

Neuerthelesse, out of the Genemlitie of the Natures abouesaide, We intend to be excepted the Particulars expressed in the Schedule next ensuing, in which We have conterned all the Natures, that Weemeane to have reserved for Our Bountie.

A ME-

A MEMORIAL

OF THOSE SVITS

wherein We are contented to bee moued by Our Servants and Subiests, and to reward them according to the particular merit of the Suitor.



Ifts of Offices in Our Gift, to meet and worthy persons.

- 2. K Eeping of Parkes and Walkes in Chases and Forrests, and keeping of Castles, Forts or Houses.
- 3. F Orfeitures of Landes and Goods that shall grow here.

 C 3 after

after by Murthers or other Felonies, wherein neuerthelesse Wee doe straightly forbid all persons whatsoeuer they be, that shalbe Suitors to Vs for any such Forfeitures, if there shalbe any motion made before the Offendours bee duly conuicted, that they do not in any fort refort to any of Our Iudges, Iustices, learned Councell, or other ministers of Iustice, nor intermeddle directly or indirectly in the profecution of the Cause, before the Offendors be duely convicted, vpon paine both to bee disabled to obtaine their Suite or any part thereof, or otherwise to incurre Our displeasure for their contempt' in that behalfe.

- 4. P Ardons in Cases appearing vnto Vs by due Certificate and Commendation, to be fit to receive Our Mercy.
- 5. E Scheats that shall growe due for want of Heire by Bastardie or otherwise.
 - 6. L Ands that shal be hereafter purchased by Aliens.
 - 7. D Enization of fuch persons as shall be thought fit.
- 8. F Orfeitures of Outlawries of fuch as shall bee hereafter Outlawed after Judgement, and stand so outlawed by the space of sixe moneths, after the Outlawrie retur-

returned, and likewise of such as are already outlawed after Iudgement, and shall not discharge fuch outlawrie within fixe moneths next after the date hereof: with Cautions and Prouision that the true Creditors shall bee first payd their debts, and that none of Our Subjects shalbe sued by force of fuch Graunt, for any debt or other cause in Our Name, but onely in the name of the Grauntee, and with a Clause to be conteined in such our Grants, for submitting the same to Our Court of Exchequer, for the mitigation of the extremitie of the forfeiture, a tenth part of the benefite of such outlawrie so mitigated

ted to be referued to Our owne Vse.

9. Proiests of new invention, fo they be not contrary to the Law, nor mischieuous to the State, by raising prices of commodities at home, or hurt of trade, or otherwise inconvenient.

yeere of Q. Elizabeth, whereupon there is no seisure or Installement.

ti. A Lso, whereas in the Schedule of things reserved from Suit, We have made mention of Assarts and Defettive Titles, as cases fit onely to be measured.

D suit fund

fured by Our owne conscience; Yet We do hereby declare, that We do not vnder stand (as comprehended in that Our reservation) such intrusions as haue bene made vpon Our possessions by colour of any Intaile, where the Intaile is spent, or by colour of any terme, where the terme is expired, being matter of plaine disinherison vnto Vs, and that which no Subiett in his owne interest would indure: And therefore We are well pleased, That Our Seruants and Subiests do moue Vs in cases of those two natures. Prouided alwaies, that they do not fal vpon any those particular Titles which are already made knowen vnto \mathbf{V} s.

Vs, and Registred into a Booke, fined by the hand of the Chancel. lour of Our Exchequer, to the view whereof, as occasion shall ferue, the fuiter may be admitted, to the intent he may thereby fee, there is no cause to reward him for discovery of that, which is already knowen; neither also that they meddle with any more ancient Intrusions, but onely such, where the Intrusions have bene made, since the first yeere of K. H 8. And that the Suitors submit themselues to such composition, as shalbe made by our Commissioners, And a tenth part of the benefit of such Composition as shall accrue to bee referued to Our selues,

selves, and Our successions, and the parties in possession, to take a new Patent, with the former Tenure reserved.

And because We are willing that those moneys which doe arise by the faults of offendours, may sometimes serue for matter of Bountie, (to a well deserving servant) after they are levied in a course of lustice, and moderated by those rules of equitie and discretion, with which the publique ministers doe temper the feueritie and rigour of the Lawes, and not purfued or profecuted by private men, who for the most part care not how they molest, or straine the Subject in such cases: Wee doe first declare, that Wee are pleased. That

That all fuch moneys as shall here after come into Our Exchequer, growing either upon forfeitures, or vpon Fines inflitted by any of Our Courts of Iustice for notorious crimes, and misdemeanours (Our Court of Star-chamber onely excepted) shall be so distinguished and seuered in the Receipt (without being mingled with any other Treafure, nor issued for any Our owne occasions) as Wee may distribute. such portion thereof, as shall seeme good unto Us, upon any man that meriteth Reward. Wherein, although Wee know Wee shall depart with many branches of those Receipts, which have come under the Title of ordinary casuall Reucnue

nue of the Kings of England; Yet Wee haue thought it more agreeable to Honour and Iustice, and to the presidents of the greatest and wifest Princes, (aswell Our neighbours, as Our Predecessours) when Wee are disposed to Reward any man out of such casualties, to vse Our owne Iudgement for the quantitie, and not to leave the prosecution in such cases to priuate men, lest when they know the particular nature of that offence from which their benefit should be deriued, they may take some such indirect and violent courses, (in respect of their owne gaine) as is farre contrary to that Clemencie, which Wee have ever vsed, and intend tend to doe to all Our louing Subiects; having ever thought it as proper for Us, (respecting Our Kingly Office) to be the moderatour of the rigour of Our Lawes, as to preserve them from neglect, the one leading to oppression of many, and the other to the overthrow and dissolution of the whole.

In which consideration also, whereas Wee have beene contented heretofore (and so are still determined) to bestow upon divers perfons according to their merit some portion of that Benefit which the Lawes have given Us, upon the conviction of Recusants. Wee doe first expresty signific Our great dislike of such as out of desire of their

their owne priuate profit, baue taken, or shall take undue and extreme courses against any of Our Subjects, aswell by inditing them in places where they baue no residence, as otherwise; Andnext, because Wee haue bene also informed, That some others, to whome Weee have passed such Graunts, haue somuch abused Our fauours, as to presume to compound with divers ill affected, for light summes, before any Conviction, (whereby the offendours in that kinde have beene the more backeward to conforme themselues: which is contrary to the godly ende and purpose of Our Lawes, that aymed not at their punishment, but at their reformation:

formation: Wee doe hereby commaund, that in all Graunts of like nature hereafter, a special Clause be inserted, that no such Graunts doe in any wise proceed to Composition with any Recusant before a lawfull Conviction. And further, that sufficient Caution and Securitie be given, that We be duely answered of a third of those Forseitures or Compositions, for the better upholding and continuing of that proportion of Revenue, which We have heretofore received.



Imprinted at London by Robert Barker, Printer to the Kings most Excellent Maiestie.

Anna Dom. 1610.





Facsimile Reprint, 1897.

Private Edition. Impression Ro.20

NOTE UPON THE BOOK OF BOUNTY.

THE Declaration relating to matter of Bounty, published by King James I. in 1610, is probably unique among legal documents. In form a royal proclamation, it comprises a statement of the common law concerning monopolies, to which is owing its present importance and for the sake of that statement it has been endorsed by Parliament and in effect incorporated in the Statute of Monopolies. The authenticating enactment runs as follows:—

Forasmuch as your most excellent majesty in your royal judgment, and of your blessed disposition to the weal and quiet of your subjects, did, in the year of our Lord God 1610, publish in print to the whole realm, and to all posterity, that all grants of monopolies, and of the benefit of any penal laws, or of power to dispense with the law, or to compound for the forfeiture, are contrary to your majesty's laws, which your majesty's declaration is truly consonant, and agreeable to the ancient and fundamental laws of this your realm: And whereas your majesty was further graciously pleased expressly to command that no suitor should presume to move your majesty for matters of that nature; yet, nevertheless, upon misinformations and untrue pretences of public good many such grants have been unduly obtained and unlawfully put in execution to the great grieyance and inconvenience of your majesty's subjects, contrary to the laws of this your realm, and contrary to your majesty's royal and blessed intention, so published as aforesaid: For avoiding whereof and preventing of the like in time to come, may it please your most excellent majesty at the humble suit of the lords spiritual and temporal and the commons in this present Parliament assembled, that it may be declared and enacted, and be it declared and enacted by the suthority of this present Parliament, that, &c.

In accordance with the idea embodied in this preamble, the entire Statute is modelled upon the Declaration, and much of its language is borrowed from that source. But the Declaration itself, so important as it is in the history and exposition of the law, so interesting from every point of view, has most unaccountably been lost to knowledge for upwards of two hundred and fifty years. was reprinted in 1619 by the order of King James but probably has never been reproduced in any form since that date. The reference made to it in the Statute of Monopolies is so vague that perhaps it would never have led to its identification at the present date had not the deficiency been supplied by the contemporary testimony of Sir Edward Coke. He makes three separate allusions Two of these are to be found in the Third to the document. Institute in the chapters treating of Monopolies (a) and Penal Laws (b) respectively. Both passages are expressed in substantially the same terms, and they state in effect that the Case of Penal Laws (c) and the Case of Monopolies (d) were principal motives of

⁽a) 3 Inst. 182. (b) 3 Inst. 187. (c) 7 Co. Rep. 126. (d) 11 Co. Rep. 84.

THE BOOK OF BOUNTY.

the king's book mentioned in the preamble of the Act, and that the book was a great motive of obtaining the Royal Assent to the statute.

The third reference in Coke occurs in his comment appended to the Case of Monopolies (f), where he says, "our Lord the King that now is, in a book which he in zeal to the law and justice commanded to be printed anno 1610, intituled 'A declaration of his Majesty's Pleasure,' &c., p. 13, has published that monopolies are things against the laws of this realm, and therefore expressly commands that no suitor presume to move him to grant any of them, &c."

The reference here to the title and to the contents of page 13 affords a complete identification and proves beyond argument that the text now re-published is the same from which Sir E. Coke quoted.

The circumstances attending the composition and publication of this most interesting document have been sufficiently discussed from the present writer's point of view elsewhere (g). By the kindness of Professor Gardiner I am enabled here to add some comments of his contained in a letter upon this subject addressed by him to my friend Mr. A. B. Shaw.

SEVENOAKS,

October 17, 1896.

DEAR MR. SHAW,

I have examined the little book in the Museum Library, and quite understand why it is not included in K. James's works. It is not a personal production of his own, but an official declaration issued in his name, like any other declaration or proclamation. Though it was printed in 1610 (i.e., between March 25, 1610, and March 25, 1611), it was drawn up in the end of 1608, and was one of Salisbury's many attempts to check James's extravagance. You will find it in various forms amongst the State Papers Domestic XXXVII., 72—76 (Mrs. E. Green's Calendar, 1603—10, p. 467).

The only interest that attaches itself to the date of publication is to show that it was printed in connection either with the Great Contract or with the break-up of the Parliament. I do not remember any evidence which would fix

the date to the month.

The reference to it in the Statute of Monopolies is delusive. James in his declaration declared monopolies to be illegal, meaning, I believe, the grant of the right of sole selling of ordinary products in accordance with the judicial decision in the case of cards. Further on James expressly excepts the

book the blocks were prepared from which the present reprint has been executed.—J. W. G.

⁽f) 11 Co. Rep. 88.
(g) The reference here is to my
"Monopolies by Patents," for which

THE BOOK OF BOUNTY.

right of sole selling on new inventions. If your friend will look at my argument at the beginning of the History of England, Vol. IV., and at a paper of mine in Archæologia, XLI. 224, he will see that my notion is that the patents which gave offence were based on the view that the goods protected were new inventions or (what came to the same thing) new introductions, but that from motives of public policy the definition was very loosely considered, and made to cover many things which were not fairly covered by either term.

If your friend disagrees with this view, I shall be only too glad to consider his arguments, and, at all events, he will find in the references and quotations a good deal of

information on the subject.

Believe me,

Yours sincerely, SAMUEL B. GARDINER.

As the result of inquiries made at some of the principal libraries, I have notes of the following surviving copies of the book:—

BODLEIAN.

Edition of 1610.

Edition of 1619.

Two copies of each edition. Three of the four copies are in volumes of 17th century pamphlets bound up together in modern times. The fourth was certainly not bound up before 1613. The contents of that volume are various small books—the Declaration coming first and being succeeded by a book on the Art of Jugling. (Communicated by Mr. E. W. B. Nicholson.)

BRITISH MUSEUM.

Edition of 1610. Two copies bound separately. Catalogued under the heading "Great Britain and Ireland.—James I., King."

The press marks are 115. a. 25, and 709. a. 1.
(The edition standing at 115. a. 25, from which
the annexed facsimile has been taken,
was presented to the Museum by King
George III.)

Edition of 1619. One copy.

Bound up with several other Proclamations and Pamphlets. Catalogued under the heading "Great Britain and Ireland.—James I., King."

This is the seventh tract in the 1603—1627 volume of the "Burney Collection of Papers, &c."

(Communicated by Mr. W. S. Johnson.)

THE BOOK OF BOUNTY.

CAMBRIDGE UNIVERSITY LIBRARY.

Edition of 1610. A perfect copy.

Bound up with several other proclamations, &c., of contemporary date (1605—1613), and all printed by Robert Barker, but having no other apparent connection with the Book of Bounty. It stands No. 3 in the Collection.

The book comes from Bishop Moore's Collection and was presented to the Library by King George III. (Communicated by Mr. H. Fletcher Moulton.)

DUBLIN-Trinity College Library.

Edition of 1610.

Bound up with several other proclamations and pamphlets by various printers of contemporary date (1607 to 1626), but having no apparent connection with the book. It stands No. 7 in the Collection.

This volume is classed: "DD.kk. 18, No. 7."

Edition of 1619.

Bound up with miscellaneous pamphlets. It stands No. 2 in the Collection.

This volume is classed: "P.II. 24, No. 2." (Communicated by Mr. Alfred de Burgh.)

EDINBURGH-Advocates' Library.

Edition of 1619.

One of a miscellaneous volume of pamphlets of dates ranging from 1607 to 1626, and having no connection with one another. The binding of the volume seems to be early 18th century.

(Communicated by Mr. J. T. Clark.)

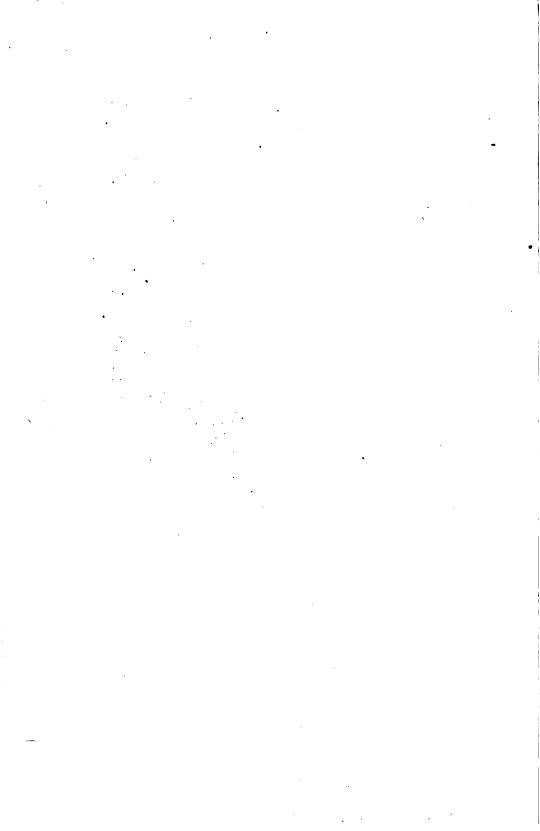
MIDDLE TEMPLE.

Edition of 1610. A perfect copy.

Bound with the collection of "Miscellaneous Tracts" in the Library, of which it forms No. 4 in vol. 48. (Communicated by Mr. J. Hutchinson.)

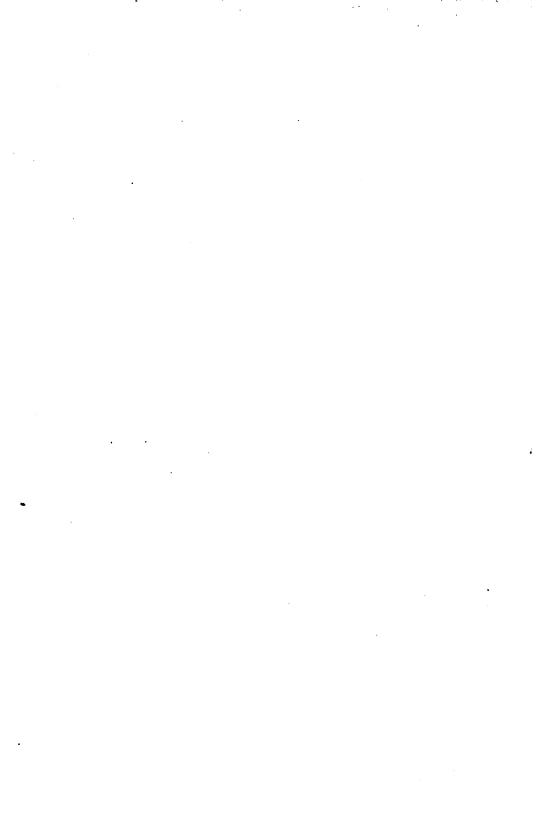
The book appears to be a small quarto, but the publishers tell me that it seems from the printer's signatures upon the pages to have been printed in octavo form and that its present appearance is probably due to cutting down. It is described as a quarto in the British Museum Catalogue.

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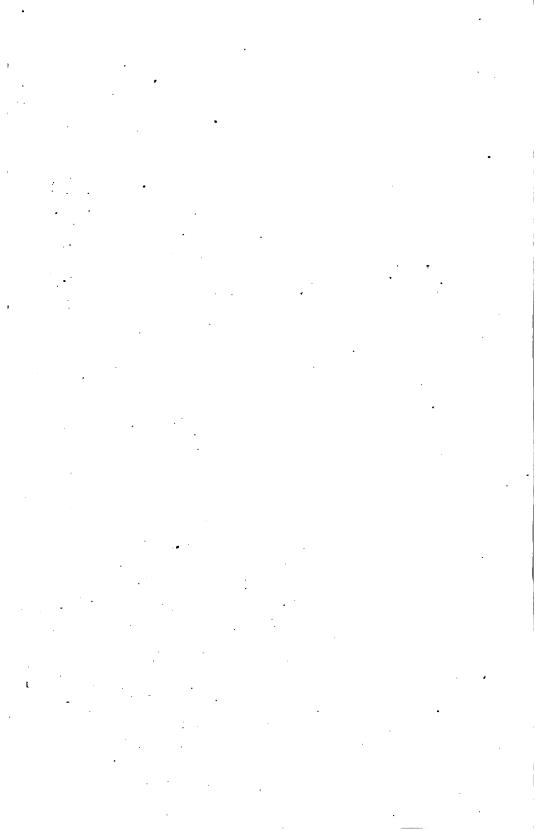


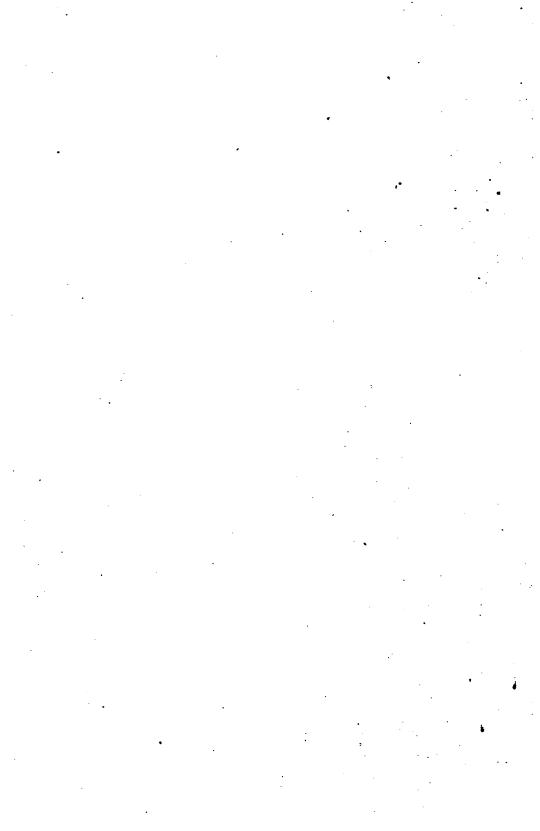
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CJ AEQ LLd
A declaration of His Melectics
Stanford Law Library
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